



Minneapolis

City of Lakes

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TO: Council Member Betsy Hodges and Members
of the Intergovernmental Relations Committee

FROM: Dana Banwer, Assistant City Attorney

DATE: October 27, 2009

RE: Proposed Charter Revision – Summary of
Changes Related to City Clerk’s Office

MEMORANDUM

Overview

The Charter Revision Work Group plan required this office to review the proposed Charter revisions and provide an overview as to specific proposed Charter amendments that would affect various City departments. Over the course of the past several months, we reviewed the proposed Charter amendments, discussed the changes with representatives from each department, and in some cases, discussed the amendments with the Charter Revision Work Group. This memorandum summarizes the impact of this proposal on the City and the City Clerk’s Office.

City Clerk’s Office Issues

I. City Clerk’s Office and Department

The proposed Charter revision significantly changes the appointment process for the City Clerk from the current process, whereby the City Clerk is “elected” by the City Council, to the “Executive Committee process” proposed for all department heads. In addition, the proposed Charter revision treats the City Clerk and the City Clerk Department as it does several other departments, including the requirement that the City Council “must establish, organize, and otherwise provide for – a city clerk, and an appropriate office and staff”.

II. City Clerk’s Duties Related to Elections

The current Charter specifies certain City Clerk duties related to elections, including filing deadlines, and public notice requirements. Charter Chap. 2. The proposed Charter revision (Chapter 3) retains



language related to elections, and prescribes the City Clerk's role in the conduct of elections. The primary difference between the current Charter and the proposed Charter revision related to elections is that the proposed Charter refers to state election law and provides that "[u]nless it is inconsistent with this charter, the Minnesota election law applies to each municipal election". (§3.1(a)). The current Charter provides somewhat more detail about the City Clerk's role in the administration of elections, including filing for nominations and election returns, while the proposed Charter revision provides that "[t]he city clerk administers each election under the City Council's direction".

III. Oaths

There are several places in the current Charter where oaths, affirmations and affidavits are referenced, and the City Clerk's role in administering such oaths. According to the current City Clerk, oaths of office vary widely from one position to another, without apparent reason. The proposed Charter revision places "oaths of office" language in one section (§9.2), and applies the same oath to each "officer". An "officer" includes each elected officer, each board's members and officers for which the charter or a general law, special law, or ordinance provides, and each employee that the charter, a general law, special law, ordinance, or board designates as an officer.

IV. City Clerk's Role Related to Service, Filing and Maintaining Records

The current Charter contains numerous provisions located in several chapters of the Charter that enumerate the City Clerk's responsibilities related to maintenance of official records, filing of documents, or service of documents. Under the proposed Charter revision, these provisions will be removed to ordinance (see discussion below).

In addition, the current Charter specifies that when the Mayor vetoes an action taken by the City Council, he or she must return the action to the City Council, along with his or her objections to the actions, by depositing the action with the City Clerk. The proposed Charter revision is silent about to whom the Mayor must return the action. This should be clarified prior to adoption of a revised City Charter to avoid confusion about the Mayor's veto.

V. Removal of Charter Powers to Ordinance

In keeping with the philosophy of the Model Charter for Minnesota Cities, several Charter provisions are recommended for removal to ordinance. Moving provisions to ordinance results in a significant difference as to how easily those provisions may be altered. Amending a Charter provision requires either a 13-0 vote of the City Council or a majority popular vote in favor of a ballot questions. Amending an ordinance, however, requires only a majority vote of all Council Members present.

